



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

**DRAFT**

Date Amended: **06/16/05**

Bill No: **SB 599**

Tax: **Property**

Author: **Machado**

Related Bills:

**BILL SUMMARY**

This Board of Equalization sponsored bill would expressly provide that the claims filed by taxpayers for the parent-child change in ownership exclusion and base year value transfers for seniors are not public documents and not subject to public inspection.

**Summary of Amendments**

The June 16 amendments specify that certain persons may inspect these claim forms. The April 26 amendments add legislative intent language provided that these claim forms are not public documents and stating the need for protecting that interest, as required by Proposition 59, which was approved in November 2004.

**ANALYSIS**

**Current Law**

Revenue and Taxation Code Section 408.2 provides, that except as provided in Section 451 (relating to property statements) and Section 481 (relating to change in ownership statements) any information and records in the assessor's office which are required by law to be kept or prepared, other than homeowners' exemptions, are public records and shall be open to public inspection.

In claiming either the parent-child change in ownership exclusion pursuant to Section 63.1 or the base year value transfer provisions of Section 69.5 for persons over the age of 55 years, taxpayers must provide their social security numbers on the claim form they file with their local county assessor. Social security numbers are the basis by which claims for these two tax benefits are monitored on a statewide basis by the Board of Equalization. With respect to the parent-child exclusion, taxpayers are limited to claiming the exclusion on the first one million dollars of real property transferred excluding principal places of residences. With respect to a base year value transfer, a taxpayer may claim the transfer only once in a lifetime.

Existing law is silent with respect to the confidentiality of claims filed by taxpayers pursuant to Sections 63.1 and 69.5.

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### Proposed Law

**Parent-Child Exclusion.** This bill would add subdivision (i) to Section 63.1 to expressly state that a claim filed for the parent-child change in ownership exclusion is not a public document and is not subject to public inspection. In addition, it would expressly provide that certain persons may inspect the claim: namely, by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

**Base Year Value Transfers.** This bill would add subdivision (n) to Section 69.5 to expressly state that a claim filed for a base year value transfer is not a public document and is not subject to public inspection. In addition, it would expressly provide that certain persons may inspect the claim: the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

This bill would also amend Section 69.5(f)(1) to delete the need to provide the name and social security number of a spouse that was a record owner of the original property at the time of its sale. This requirement is the unintended result of the lack of triple joining language in three bills that amended Section 69.5 in 1990 which caused the extraneous phrase "was a record owner of the original property at the time of its sale or" to be in this section of code. In addition, it would expressly provide that certain persons may inspect the claim: the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

**Cross Reference Additions.** This bill would amend Section 408.2 to add cross-references to Sections 63.1 and 69.5.

**Legislative Findings and Declarations.** As required by Section 3 of Article I of the California Constitution, this bill makes Legislative findings to demonstrate the interest protected by providing that these claim forms are not public documents and the need for protecting that interest:

Claims filed under Section 63.1 or Section 69.5 contain taxpayer sensitive personal information, including social security numbers, dates of birth, home addresses, home telephone numbers, marital status, adoption status, financial matters, and medical information. Notwithstanding Section 3 of Article I of the California Constitution, county assessors have a responsibility and an obligation to safeguard from public access a taxpayer's personal information with which it has been entrusted.

The right to privacy is a personal and fundamental right protected by Section 1 of Article I of the California Constitution and by the United States Constitution. All individuals have a right of privacy in information pertaining to them.

This state has previously recognized, in Section 408.2 of the Revenue and Taxation Code, the importance of protecting the confidentiality and privacy of

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an individual's personal and financial information contained in homeowners' exemption claims, property statements, and change of ownership statements filed with county assessors for property tax purposes.

In addition to the right of privacy, there is a need to protect from public disclosure personal information due to the growing prevalence and debilitating nature of identity theft.

It is not the intent of this measure to make confidential that a particular property has received a property tax benefit pursuant to Section 63.1 or Section 69.5 of the Revenue and Taxation Code, or the amount of the benefit, but only to protect the personal information contained in the claim form. In addition, the Legislature further finds that in determining the fiscal impact resulting from either of these provisions, county assessors may provide aggregated data on property in their counties that have been extended these property tax benefits.

### **In General**

Under existing law, real property is generally reassessed to its current fair market value whenever there is a "change in ownership." (Article XIII A, Sec. 2; Revenue and Taxation Code Sections 60 - 69.7) However, under certain circumstances property owners may avoid reassessment of a particular property by way of either a change in ownership exclusion or a base year value transfer.

**Parent-Child Exclusion.** Proposition 58, approved by voters on November 4, 1986, added subdivision (h) to Section 2 of Article XIII A of the California Constitution, to provide that the term "change in ownership" does not include the purchase or transfer between parents and their children of a principal residence and the first \$1 million of the full cash value of all other real property. Proposition 193 on the March 1996 ballot amended this section to apply the exclusion to transfers of real property from grandparents to grandchildren when all the parents of the grandchildren who qualify as children of the grandparents are deceased as of the date of transfer. By avoiding reassessment to current market value, children can preserve the Proposition 13 protected value of property acquired from their parents (or vice versa) and the property taxes on the property will remain the same.

Revenue and Taxation Code Section 63.1 provides the statutory implementation for Propositions 58 and 193. To receive the change in ownership exclusion, Section 63.1 requires the taxpayer to file a claim form with the assessor. Relevant to this bill, subdivision (d) of Section 63.1 requires that the social security number of each eligible transferor be provided on the claim form. Social security numbers are the basis by which the \$1 million limitation is monitored on a statewide basis. County assessors report quarterly to the Board all claims filed for the exclusion other than those involving a principal residence. Properties transferred after the \$1 million assessed value ceiling is reached are subject to reassessment at current market value.

**Base Year Value Transfers.** Proposition 60, approved by the voters in November 1986, amended Section 2 of Article XIII A of the California Constitution to allow persons

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over the age of 55 to sell a principal place of residence and transfer its base year value to a replacement principal place of residence within the same county. This allows eligible homeowners to avoid paying property taxes on their new home based on its current market value and instead preserve their Proposition 13 protected value of their prior home by transferring it to their new home. Proposition 90, which was passed by the voters in November 1988, extended these provisions to a replacement dwelling located in another county under limited conditions. Proposition 110, approved by the voters in June 1990, extended these provisions to severely and permanently disabled persons of any age.

Revenue and Taxation Code Section 69.5 provides the statutory implementation for Propositions 60, 90 and 110. It details the provisions by which persons over the age of 55 years and disabled persons may transfer, subject to many conditions and limitations, the base year value of their primary residence to a newly acquired replacement residence. This property tax relief is generally allowed only once in a lifetime. To receive the base year value transfer, Section 69.5 requires the taxpayer to file a claim form with the assessor. Relevant to this bill, subdivision (f) of Section 69.5 requires that the social security number of each claimant be provided on the claim form. Social security numbers are the basis by which the once in a lifetime benefit is monitored on a statewide basis. County assessors report quarterly to the Board all claims for base year value transfers.

**Spouses of Claimants.** As previously noted, the base year value transfer is a once in a lifetime benefit. To qualify Section 69.5(b)(7) requires that a “claimant” may not have previously received a base year value transfer. Section 69.5(g)(9) provides that the spouse of the claimant is deemed to have used their once in a lifetime benefit if the spouse is a record owner of the replacement dwelling. However, Section 69.5 (f)(1) incorrectly requires that the claim form include the social security number of any spouse of the claimant who was a record owner of the original property at the time of its sale in addition to the social security number of any spouse that is a record owner of the replacement dwelling. To properly administer Section 69.5(g)(9) the name and social security number of a spouse of a claimant is necessary only if he or she is a record owner of the replacement dwelling.

## COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the Board to protect the disclosure of a taxpayer’s social security number.
2. **Key Amendments.** The **June 16 amendments** expressly provide that certain persons may inspect the claim. These amendments were made at the request of the Trusts and Estates Law Section of the State Bar of California to ensure that these persons would have access to needed information. The Section was concerned that the bill as introduced would also prevent claimants and their representatives from gaining access to their own claim forms. The **April 26** amendments add legislative findings and declarations to demonstrate the interest protected by providing that these claim forms are not public documents and the need for protecting that interest, as required by Proposition 59, which was approved in

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November 2004. The amendment also adds cross references to Sections 63.1 and 69.5 to Section 408.2 which details other documents that are not public documents.

3. **Claim Confidentiality.** Because claims for these property tax relief benefits contain social security numbers, the Board-prescribed claim forms include a statement that they are not subject to public inspection. However, persons have made Public Records Act requests to counties for copies of all claims submitted by property owners. Board staff has opined that these claims are not subject to public inspection under the Information Practices Act which was enacted to limit the dissemination of personal information. However, it is not expressly stated in law. This bill would provide clarity to tax practitioners as well as interested parties that these documents are not public records subject to public inspection.
4. **Names Listed on Claim Form - Technical Correction.** In 1990, three bills amended Section 69.5 (Statutes 1990, Chapters 902, 1487, and 1494). An amendment to Section 69.5(f)(1) made by Chapter 902 (AB 3723) was chaptered out thereby creating an inconsistency between the definition of claimant in subdivision (g)(9) and the claimant's information required to be reported on the claim form in Section 69.5(f)(1). This bill amends Section 69.5(f)(1) to restore the change made by AB 3723 that was inadvertently chaptered out.

#### **COST ESTIMATE**

This bill would require the Board to update the base year value transfer claim. The Board routinely updates claim forms and any associated costs are accommodated within the Board's existing budget. There are no other costs.

#### **REVENUE ESTIMATE.**

This bill has no revenue impact.

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